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**Federal Communications Commission**

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Dalrymple Realty Corp.	)	File No.: EB-FIELDNER-13-00009892
	)	
Owner of Antenna Structure No. 1006946	)	NOV No.: V2013324000033
	)	
Elmira, New York	)	

**NOTICE OF VIOLATION**

**Released: July 24, 2013**

By the District Director, Philadelphia Office, Northeast Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)<sup>1</sup> to Dalrymple Realty Corp. (Dalrymple), owner of antenna structure number 1006946 in Elmira, New York. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.<sup>2</sup>

2. On July 11, 2013, an agent of the Enforcement Bureau's Philadelphia Office inspected antenna structure number 1006946 located on Comfort Hill Road, Elmira, New York at the coordinates 42-01-55 North Latitude 076-47-01 West Longitude and observed the following violations:

- a. 47 C.F.R. § 17.51(b): "All high intensity and medium intensity obstruction lighting shall be exhibited continuously unless otherwise specified." At the time of the inspection, the top level white strobe was extinguished on the antenna structure.
- b. 47 C.F.R. § 17.47(a): "The owner of any antenna structure which is registered with the Commission and has been assigned lighting specifications referenced in this part: (a)(1) Shall make an observation of the antenna structure's lights at least once each 24 hours either visually or by observing an automatic properly maintained indicator designed to register any failure of such lights, to insure that all such lights are functioning properly as required; or alternatively, (2) Shall provide and properly maintain an automatic alarm system designed to detect any failure of such lights and to provide indication

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<sup>1</sup> 47 C.F.R. § 1.89.

<sup>2</sup> 47 C.F.R. § 1.89(a).

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of such failure to the owner.” At the time of the inspection, representatives from Sound Communications were responsible for monitoring the obstruction lights on antenna structure number 1006946 on behalf of Dalrymple. However, the Sound Communications representatives informed the agent that they were not visually monitoring the obstruction lights once each 24 hours and there was no automatic alarm system installed and operational.

- c. 47 C.F.R. § 17.23: “Unless otherwise specified by the Commission, each new or altered antenna structure to be registered on or after January 1, 1996, must conform to the FAA’s painting and lighting recommendations set forth on the structure’s FAA determination of ‘no hazard’ ....” The FCC’s Antenna Structure Registration (ASR) database currently indicates that antenna structure number 1006946 requires marking and red obstruction lighting during the nighttime in accordance with FAA circular number 70/7460-1F, FAA Chapters 3, 4, 5 and 9. The antenna structure does not conform to these recommendations because it is equipped with medium intensity flashing white obstruction light for day in lieu of marking.<sup>3</sup>
- d. 47 C.F.R. § 17.4(a): “the owner of any proposed or existing antenna structure that requires notice of proposed construction to the Federal Aviation Administration must register the structure with the Commission.” At the time of the inspection, Dalrymple owned antenna structure number 1006946 but the ASR database listed T&K Communications Systems Inc. as the owner.

3. Pursuant to Section 403 of the Communications Act of 1934, as amended,<sup>4</sup> and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, Dalrymple must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.<sup>5</sup>

4. In accordance with Section 1.16 of the Rules, we direct Dalrymple to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized

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<sup>3</sup> In order to come into compliance with the Commission’s rules, Delrymple must do one of the following: (1) obtain a new FAA “no hazard” determination indicating that the current lighting system is permitted and then submit a modified antenna structure registration to reflect the new “no hazard” determination, (2) submit a modified registration if a new FAA “no hazard” determination already has been obtained, or (3) come into compliance with the current requirements by repainting the antenna structure and operating red obstruction lighting at night.

<sup>4</sup> 47 U.S.C. § 403.

<sup>5</sup> 47 C.F.R. § 1.89(c).

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officer of Dalrymple with personal knowledge of the representations provided in Dalrymple's response, verifying the truth and accuracy of the information therein,<sup>6</sup> and confirming that all of the information requested by this Notice which is in the company's possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.<sup>7</sup>

5. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

Federal Communications Commission  
Philadelphia Office  
One Oxford Valley Building, Suite 404  
2300 East Lincoln Highway  
Langhorne, Pennsylvania 19047

6. This Notice shall be sent to Dalrymple at its address of record.

7. The Privacy Act of 1974<sup>8</sup> requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

David C. Dombrowski  
District Director  
Philadelphia District Office  
Northeast Region  
Enforcement Bureau

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<sup>6</sup> Section 1.16 of the Rules provides that "[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person . . . . Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)'." 47 C.F.R. § 1.16.

<sup>7</sup> 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

<sup>8</sup> P.L. 93-579, 5 U.S.C. § 552a(e)(3).